

## **5     *DESIGNATED PORT AREA MASTER PLAN - REGULATORY ISSUES IN THE DPA: PROVIDING FOR GLOUCESTER'S MARITIME INDUSTRY***

### **5-1   INTRODUCTION**

This section of the Gloucester Municipal Harbor Plan is prepared as the Master Plan for the Designated Port Area (DPA) of Gloucester Harbor. The DPA Master Plan pertains specifically to lands and waters of the DPA within the municipality.

The findings and recommendations of this DPA Master Plan are in accordance with the DPA Master Plan approval criteria found within the state regulations for the review and approval of Municipal Harbor Plans at 301 CMR 23.05(e).

In general, a DPA Master Plan must preserve and enhance the capacity of the DPA to accommodate water-dependent industrial use and prevent substantial exclusion of this type of use by other uses. The Gloucester Harbor Plan/DPA Master Plan does this by preserving the shorefront for water-dependent industrial uses, by defining the types and intensity of principal and supporting uses and the conditions under which they should be approved, and recommending regulatory revisions to codify this and improve consistency and predictability of the City and state review and approval processes.

Both the City and state are committed to strengthening Gloucester Harbor as a port for commercial fishing and other water-dependent industrial and related uses. On-going reinvestment in waterfront properties and infrastructure is essential to ensure that future. The strategy for accomplishing this is to both utilize the various economic incentives and supports available for waterfront improvements and industrial development and provide greater flexibility in the types and amount of commercial uses allowed in targeted areas of the waterfront to improve the economic return from waterfront properties to support of the water-dependent industrial activities. This DPA Master Plan presents the framework for increased investment in waterfront properties and infrastructure.

In specified areas of the waterfront, the Plan recommends increasing the percentage of a waterfront parcel that can be developed with Supporting Commercial Uses. The objective is to allow property owners to generate additional revenue to help sustain traditional water-dependent marine industrial operations.

The Gloucester Harbor Plan and DPA Master Plan support the following uses on property in the DPA:

1. Fill or structures for water-dependent-industrial uses and accessory uses;
2. Structures to accommodate:
  - a) Supporting DPA Uses, as defined and limited below;
  - b) Temporary Uses, including warehousing, trucking, parking, and other industrial and transportation uses occupying vacant space or facilities and not requiring significant structural alteration of such space or facilities.
3. Limited space and structures to accommodate public pedestrian access in conformance with the public access plan for Gloucester Harbor.

## Water-dependent Industrial Use

The priority land use for the properties within the Gloucester DPA is water-dependent industrial. This has been the long-term policy of the City and is reflected in the stated purpose and provisions of the Marine Industrial zoning district covering nearly all of the DPA. Section 2.1 of the Gloucester Zoning Ordinance provides that “the MI Marine Industrial District is established only where the district borders coastal and tidal waters; and where the utilities and the access roads can support high-intensity industrial and commercial development that is primarily marine-related” (Table 5.1). This is consistent with the state’s policy for Designated Port Areas.

While the stated purpose of the MI district is clear, the range of uses allowed by the regulations and the conditions under which they are allowed, does not ensure that the land uses are in accordance with those promoted by the district’s statement of purpose or allowed by the DPA regulations. The current broad range of allowable uses reflects, perhaps, the uses present (or formerly present) in the large and diverse area to which the district was applied (Table 5.2). Significantly, the district’s regulations do prohibit most residential uses and recreational boating uses which are the types of uses most likely to out-compete the marine-related industrial and commercial uses envisioned for the district.

**Table 5.1:** Water-dependent industrial and industrial uses allowed by the MI district.

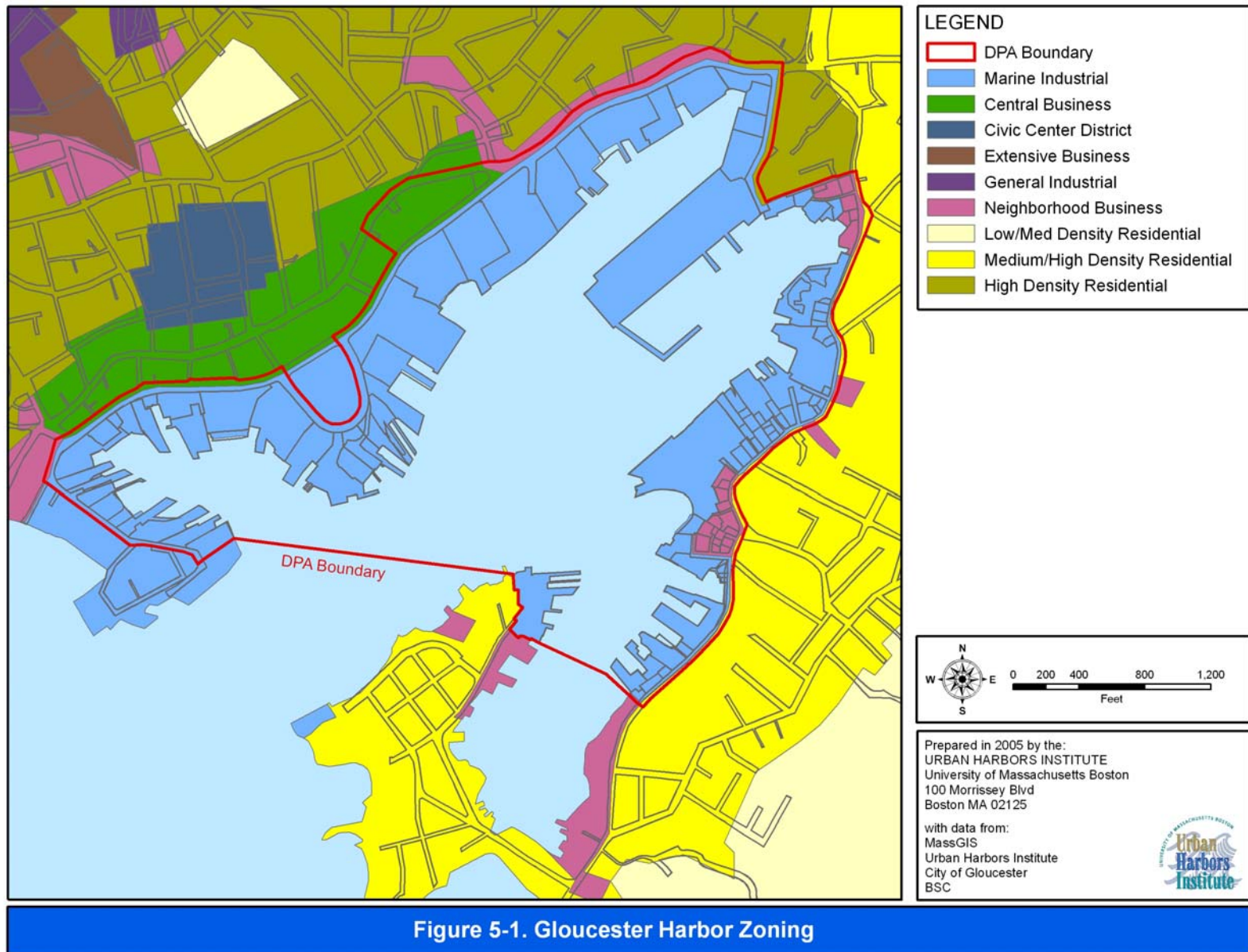
Industrial uses
Public utility facility
Boat launching, docking or docking structures, limited in MI to primarily commercial fishing vessels
Operation and docking of casino boats
Protein recovery plant
Marine-related service, storage, repair
Fuel, ice establishment
Water-dependent manufacturing, processing or research
Trailer truck park, freight terminal facilities
Processing and cooling
Bulk storage/warehousing

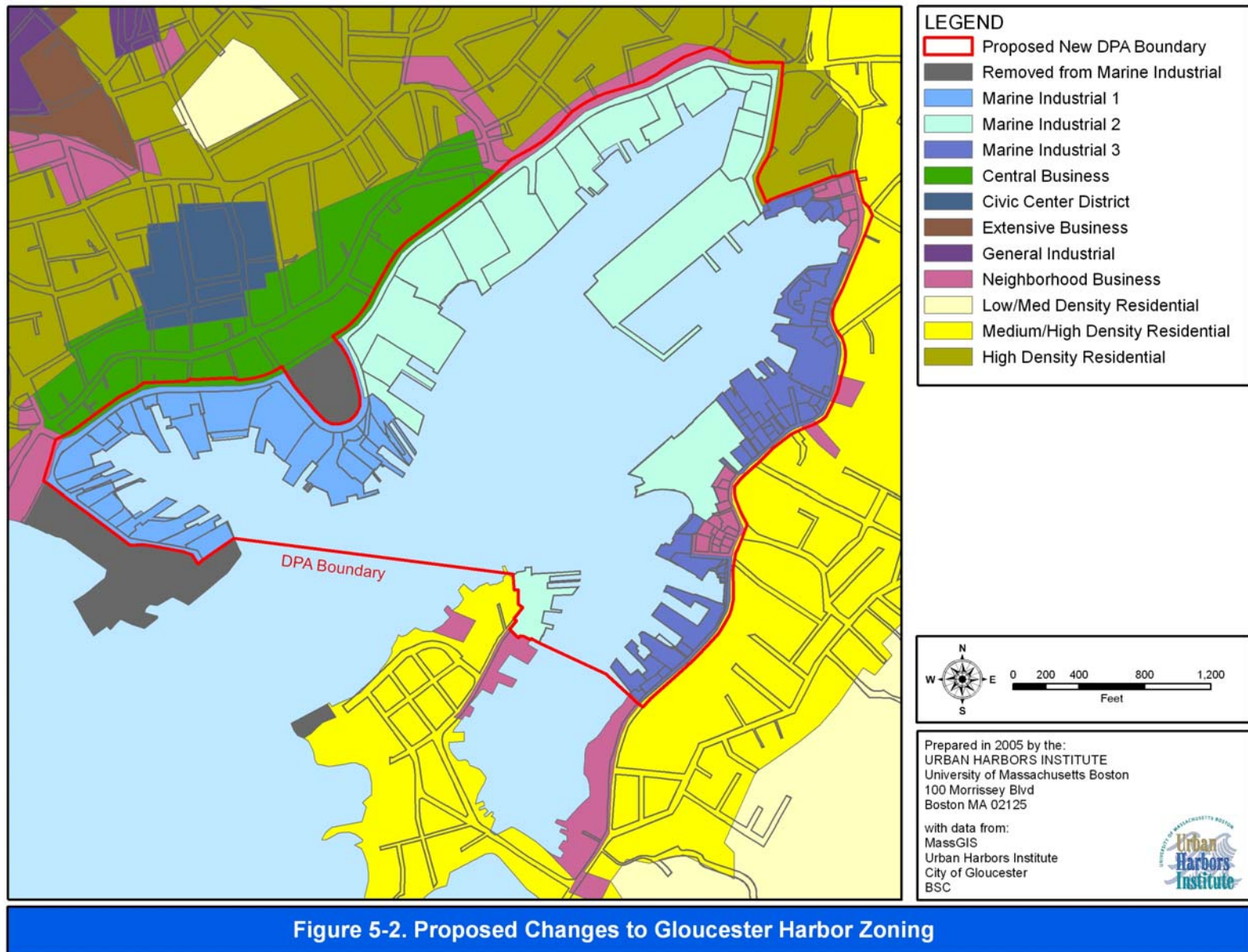
However, within the MI district (and DPA) there are subareas distinguishable in terms of the capacity of infrastructure, existing land use patterns, and other key characteristics, conditions, and use potential. Consequently, the Gloucester Harbor Plan/DPA Master Plan divides the Inner Harbor waterfront into three planning areas identified as: Harbor Cove, the Industrial Port, and East Gloucester, illustrated in Figure 2-3. These three planning areas provide the framework for a number of DPA Master Plan recommendations and implementation strategies.

The DPA covers all of the waterfront land and water of the Inner Harbor from the end of Commercial Street at Harbor Cove around to the mouth of Smiths Cove (Figure 2-2). The MI district covers almost the same land area though it also includes more of the Fort neighborhood, the area inside Harbor Loop, and the Paint Factory property. Regulatory consistency and coordination will be enhanced by making the DPA boundary and MI district(s) coterminous. This would involve removing several limited areas from the MI zoning district and one area from the DPA, as described below (Figures 5-1 and 5-2). None of these changes will adversely affect the functioning or integrity of the working port.

**Table 5.2:** Industrial and commercial uses allowed in the Marine Industrial district by the Gloucester Zoning Ordinance. The commercial uses (as conditioned) in the list represent those to be allowable by DEP in Chapter 91 licensing as Supporting DPA Uses.

Commercial Uses	Conditions applicable to Commercial Uses making them eligible for licensing as Supporting DPA Uses
Trade school, industrial training center	Teaching skills related to water-dependent industrial activities
Banks, ATMs	
Offices < 6,000 sf of floor area	Not as the predominant use of <i>new</i> buildings
Other office > 6,000 sf	Not as the predominant use of <i>new</i> buildings
Restaurant	Limited seating capacity
Marine related sales	
Building tradesman, contractor, no outside storage	
Feed, building materials establishment	
Stone mason's yard	
Retail, consumer service, other non-industrial business use	
Commercial radio transmission	
Non-commercial radio transmissioin	
Contractor's yard	
Parking of motor vehicles	
Temporary structures and uses	
Sale of arts and crafts	
Parking for uses in NB (B-2) district	
Manufacturing accessory to retail	
Employee dwelling accessory to industry	







## 5-2 SUPPORTING DPA USES

Supporting DPA Use is a concept of the state's waterways regulations (Chapter 91) and means an industrial or commercial use that provides water-dependent industrial use in the DPA with direct economic or operational support. The type, location, scale, duration, operation, and other aspects of the supporting use must be compatible with activities characteristic of the working waterfront.

Any commercial use, other than those posing a severe conflict with port operations (categorically; hotels/motels, nursing homes, hospitals, recreational boating facilities, entertainment facilities, and new buildings devoted predominantly to office use), is eligible as a Supporting DPA use.

Commercial uses that are compatible with the DPA and therefore approvable as Supporting DPA Uses are small business uses on upper floors of existing buildings, on small infill parcels, or to spaces on lots not likely to be of primary importance to maritime development or operations. Typical uses are storefront retail and service facilities; shops operated by self-employed tradespersons; eating and drinking establishments with limited seating; and small-scale administrative offices.

The DPA Master Plan provides the City with some potentially important flexibility in calculating the amount and siting of Supporting DPA Uses in the DPA. In contrast to the regulatory limit of 25 percent of the filled tideland and pier area on each project site being available for Supporting Commercial Uses, with an approved DPA Master Plan the area that can potentially be devoted to Supporting Commercial Uses can equal 25 percent of the total DPA land area. Supporting Industrial Uses may occupy an even greater area. The Plan specifies the areas of the DPA where these uses can be sited and contains provisions to ensure that the DPA is managed and regulated in conformance with the Plan.

The state standards for approval of a DPA Master Plan (301 CMR 23.05(e) 3), require the plan to identify any industrial or commercial uses allowable under the municipal zoning code that shall qualify as a Supporting DPA Use. Accordingly, the table below lists the industrial and commercial uses this Plan establishes as qualifying as a Supporting DPA Use. All are currently allowable uses in the MI district. Industrial and commercial uses currently allowed in the MI district but not endorsed as Supporting DPA Uses by this Plan are proposed to be deleted from the Table 2.3 of the Zoning Ordinance as part of the recommendations of this Plan (see below). The Chapter 91 regulations specifically exclude as Supporting DPA uses the following:

- Transient group quarters such as hotels/motels;
- Nursing homes, and hospitals;
- Recreational boating facilities;
- Amusement parks and other major entertainment or sports complexes; and,
- New buildings devoted predominantly to office use.

Provisions of this Plan and City and state regulations impose some conditions and limitations on Supporting DPA Uses. Among the general conditions and limitations on Supporting DPA uses are:

- No Supporting DPA Uses on the ground floor of an *existing building* on pile supported piers or within the water-dependent use zone (minimum of 25 feet from the present high water mark and up to 25% of the average distance from the present high water mark to the landward lot line).
- Within the water-dependent use zone, no **new** buildings for Supporting DPA Use.

- The type, location, scale, duration, operation, and other relevant aspects of the Supporting DPA Use must be compatible with activities characteristic of a working waterfront.
- Supporting DPA Uses must provide water-dependent industrial use in the DPA with direct economic or operational support.

### **5.3 DPA SUPPORTING USE MITIGATION**

Supporting DPA Use projects seeking approval must specify the economic and/or operational support being provided to water-dependent industrial uses on- or off-site. If the property does not have existing water-dependent industrial uses, a commensurate investment in on-site waterfront infrastructure (piers, wharfs, dredging) improvements to increase the site's capacity for water-dependent industrial use is an appropriate alternative. If neither is possible, and particularly in cases where a project includes a percent of Supporting DPA Uses in excess of 25 percent of the land area of the property, an appropriate contribution to the municipal Harbor Improvement Fund will be required as mitigation.

### **5.4 GLOUCESTER PORT MAINTENANCE AND IMPROVEMENT FUND**

This DPA Master Plan recommends that the Gloucester City Council establish a Harbor Improvement Fund. The purpose of the Harbor Improvement fund is to receive Chapter 91 DPA mitigation funds, the proceeds of which will be used to dredge or improve waterfront infrastructure deemed critical to the Gloucester DPA. The licensee has the option of making a lump sum contribution to the Fund or making annual payments amortized over the standard license term for a water-dependent or nonwater-dependent use project. In addition, upon recommendation of the Harbor Committee, an alternative payment schedule involving partial deferments may be authorized in unusual cases.

All cash contributions collected as a condition of Chapter 91 licensing will be deposited in this Harbor Improvement Fund along with any other funds from grants, gifts, and other sources. These funds are to be used for purposes consistent with the Harbor Plan and expenditures made in accordance with a priorities plan adopted and revised from time to time by the Harbor Committee. Funds will be used to make improvements or construct new waterside facilities in support of commercial fishermen and other marine industrial activities.

DEP is responsible for determining the contribution in accordance with the methodology developed by this Plan and will require payment as a condition of licensing. The City is responsible for collecting the money and administering the Harbor Improvement Fund.

#### ***Recommendations***

- 1. Amend the City of Gloucester Zoning Ordinance** and map to create three separate zoning districts from the current Marine Industrial (MI) district (Figure 5-1, Current Zoning; Figure 5-2, Proposed Zoning; and Table 5.3, Changes to the Use Regulations Schedule):

MI-1 Harbor Cove  
MI-2 Industrial Port  
MI-3 East Gloucester

Existing provisions of the Gloucester Zoning Ordinance along with the proposed revisions to the Use Regulations Schedule and the Intensity of Use Schedule and the

recommendations of this DPA Master Plan regarding Supporting DPA Uses are designed to accomplish the following district objectives (Figure 5.3):

#### MI-1 Harbor Cove

Existing water-dependent industrial uses are maintained by special permit conditions preventing displacement by non-water-dependent uses, but redevelopment of property with Supporting Uses is encouraged to provide financial and operational support for water-dependent industrial uses.

Properties around Harbor Cove should be encouraged to redevelop with commercial uses to:

- Support the water-dependent industrial activities on the waterfront;
- Strengthen the link between the downtown and the waterfront; and,
- Attract more pedestrian traffic.

***Increase the percentage of Supporting Commercial Use allowed in this area to a maximum of 50 percent of the ground level land area of the property (excluding water and piers).***

#### MI-2 Industrial Port

Water-dependent industrial uses occupy nearly entire parcels and are a priority. Encourage water-dependent industrial uses and industrial uses, and accommodate accessory uses, but ***limit Supporting Commercial Uses to 25 percent of the ground level land area of the lot.***

#### MI-3 East Gloucester

Water-dependent industrial use is the priority on large-scale properties. ***Increase Supporting Commercial Use to a maximum of 50 percent of the ground level area for waterfront properties only (excluding water and piers).***

2. **Amend Table 2.3 Use Regulation Schedule of the Gloucester Zoning Ordinance** by making most water-dependent industrial and related uses, allowed, and most commercial supporting uses by special permit (Table 5.3). This encourages water-dependent industrial development and allows the most appropriate application of the water-dependent use special permit standards of Section 2.2.4 (see related recommendation below). Adequate review of water-dependent industrial uses could be accomplished by creating a site plan review process or adding a set performance standards to the Zoning Ordinance.

**Table 5.3:** Proposed Changes to Use Regulations Schedule (changes in red; additions in blue)

Section	Current list of uses	Current approval required	Proposed change for Harbor Cove	Proposed change for Industrial Port	Proposed change for East Gloucester
2.3.1(6)	Boarding, lodging or guest house	SPS	SPS	no	SPS
2.3.2.(12)	Public, religious, other nonprofit schools, building or use	Y			
2.3.2.(13)	Municipal use not elsewhere more specifically covered	Y			
2.3.2.(13)	Public utility facility				



Section	Current list of uses	Current approval required	Proposed change for Harbor Cove	Proposed change for Industrial Port	Proposed change for East Gloucester
	a. Servicing exclusively the immediate neighborhood b. Servicing a broader area	CCS Y			
2.3.2(17)	Club or lodge, unless chiefly carried on as a business	CC			
2.3.2(19)	Nursery school, day care centers	Y	N	N	N
2.3.2(20)	Commercial Trade school, industrial training center	Y	Y	Y	Y
2.3.2(21)	Philanthropic institutions	CCS			
2.3.2(22)	Airport, heliport	CCS	N	CCS	N
2.3.3(29)	Boat launching, docking or docking structure primarily for commercial fishing vessels	SP	Y	Y	Y
2.3.3(31)	Outdoor recreation by government Other outdoor recreation	Y Y	Y	Y	Y
2.3.3(32)	Seasonal sale of Christmas trees	Y			
2.3.4(34)	Banks, ATM	CC	CC	No	CC
2.3.4(36)	Offices < 6,000 sf of floor area	Y	SP	Y, but SP if within 200' of water	Y, but SP if within 200' of water
2.3.4(37)	Other office	Y	SP	Y, but SP if within 200' of water	Y, but SP if within 200' of water
2.3.4(39)	Restaurant	CCS	CCS	CCS	CCS
2.3.4(40)	Motor vehicle sales, rental	CCS	N	N	N
2.3.4(41)	Marine related sales, rental, limited primarily in MI districts to commercial vessels	Y	Y	Y	Y
2.3.4(41A)	Protein Recovery Plant	CCS	CCS	CCS	N
2.3.4(42)	Motor vehicle service, storage, repair	CC	N	N	N
2.3.4(43)	Marine-related service, storage, repair	CC	Y	Y	Y
	Building tradesman, contractor, no outside storage	CC	Y	Y	Y
	Fuel, ice establishment	CC	CC	CC	CC
	Feed, building materials establish	Y	SP	N	N
	Stone mason's yard	CC	CC	N	CC
	Shopping center	CCS	CCS	N	N
	Retail, consumer service, other non-industrial business use	Y	CC	N	CC
	Manufacturing, processing or research	Y	Y	Y	Y

Section	Current list of uses	Current approval required	Proposed change for Harbor Cove	Proposed change for Industrial Port	Proposed change for East Gloucester
	Trailer truck park, freight terminal facilities	CCS	CCS	CCS	N
	Processing and cooling	Y	Y	Y	Y
	Bulk storage/warehousing	Y	Y	Y	Y
	Commercial radio transmission	SP	SP	SP	SP
	Contractor's yard	Y	Y	Y	Y
	Parking of motor vehicles	CC	CC	CC	CC
	Temporary structures and uses	SP	SP	SP	SP
	Sale of arts and crafts	Y	Y	N	Y
	Non-commercial radio trans	SP	SP	SP	SP
	Garage parking for permitted uses	Y	Y	Y	Y
	Parking for uses in NB (B-2) dist	Y	Y	Y	Y
	Parking for agricultural equipment uses on site	Y	N	N	N
	Signs	Y	Y	Y	Y
	Manufacturing accessory to retail	Y	Y	Y	Y
	Employee dwelling accessory to industry	Y	Y	Y	Y
	Office for one professional in residence	Y	Y	Y	Y
	Home occupation	SP	SP	SP	SP
	Boat launching, berthing for other commercial vessels		CC	CC	CC
	Boat Launching, services, berthing for recreational vessels		N		CC
	Transient recreational boat berthing		CC		CC

Key to notations above (refer to section 2.2.1 of the Gloucester Zoning Ordinance for complete provisions)

Y Permitted use

N An excluded or prohibited use

SP Use which may be authorized under special permit by the Board of Appeals

SPS Use which may be authorized under special permit by the Board of Appeals, accompanied by plans required by section 1.4.1.2(b)

CC Use which may be authorized under special permit by the City Council

CCS Use which may be authorized under special permit by the City Council, accompanied by plans required by section 1.4.1.2(b)

- Amend the City of Gloucester Zoning Ordinance** so that special permits for all water-dependent uses are the responsibility of either the City Council or the Board of Appeals. The purpose is to increase the consistency of administration by having one special permit granting authority responsible for the implementing the goals for Gloucester Harbor.

4. **Amend the note in the Use Regulations Table of the Zoning Ordinance** to state that "no use of the water's edge and of an area at ground level at least 25 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels."

Change makes this zoning ordinance standard minimally consistent with the water-dependent use zone requirement of the waterways regulations 310 CMR 9.51(c)(3).

5. **The provisions of Section 2.2.4 would be strengthened** by establishing the existing "factors" as standards for approval by the special permit granting authority.

Amend Section 2.2.4 of the ordinance which stipulates that, in the MI district, when a proposed use requires a special permit and is located within 200 feet of the water's edge, the Board of Appeals or City Council must find that the proposal will not result in any of the following impacts to water-dependent uses:

1. The proposed use will displace existing water-**dependent** uses;
2. The proposed use pre-empts **or interferes with the existing** or future **water-dependent development or** use of the surrounding;
3. The proposed use is incompatible with the working waterfront character of the zone
4. The proposed project **reduces** existing commercial fishing vessel berthing in Gloucester Harbor;
5. The proposed use will **adversely** affect the preservation of water-related uses on surrounding properties.

Reasonable **modifications or** conditions may be imposed on the project to ensure that it does not result in any of the above adverse-impacts to the working waterfront.

6. **Align the MI district boundaries with the DPA boundary** to improve consistency of purpose and regulatory provisions.

1. Amend the Gloucester Zoning map by removing from the MI zoning district:
  - a) the parcel occupied by the former Paint Factory
  - b) properties interior to Harbor Loop
  - c) properties on Fort Point outside the DPA boundary

The decision about which zoning district these properties should become part of is the City Council's. This Harbor Plan notes only that the district should be one which does not encourage development that might conflict with or be adversely affected by industrial uses or activities in the DPA.

2. Amend the DPA boundary:

Remove from the DPA an area of 4.354 acres to the northwest of Rogers Street. This area is currently occupied by Gorton's headquarters office buildings, a gas station, restaurant, and a retail establishment. It is within the Central Business (CB) district, whose purpose is "to accommodate a composite of business and retail uses, residential uses, office uses, and institutional uses, all of which comprise the City's central core." All industrial uses listed in Table 2.3.5 of the Gloucester Zoning Ordinance are prohibited in the CB district. Though a portion of the area (0.94 acres) is filled tidelands, it is, at its closest point, approximately 390 feet from the waterfront and separated from it by Rogers Street, the Gorton's/Americold complex and the Massachusetts Electric property. Rezoning to

MI seems impractical as the property does not border coastal or tidal waters, the existing uses are consistent with current zoning and the surrounding development in the CB district.

